IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RFA No.37 of 1999

Reserved on:18.07.2007.

Decided on: July 23, 2007

Amar Nath ***.....Appellant.***

VERSUS

State of H.P. & Anr. ***.....Respondents.***

Coram

The Hon'ble Mr.Justice Kuldip Singh, Judge.

Whether approved for reporting?[1] No

For the Appellant: **Mr.K.D.Sood, Advocate.**

For the Respondents: **Mr.M.S.Chandel, Advocate General with Mr.M.L.Chauhan, Addl.A.G.**

Kuldip Singh, Judge

The petitioner is in appeal against the award dated 14.10.1998 passed by learned Additional District Judge, Mandi in Land Reference case No.41 of 1993.

2. The brief facts of the case are that Government of Himachal Pradesh, Department of Public Works, had acquired land of petitioner for public purpose, namely, construction of Plassi – Triphalghat road comprised in Khewat No.45 min, Khatauni No.50, Khasra No.344/1 measuring 0-0-36 hactare, Khasra No.344/2 measuring 0-07-66 hactare situate in revenue estate Badhai, Sub Tehsil Baldwara, District Mandi, H.P. The notification under Section

[1] ***Whether the reporters of the local papers may be allowed to see the Judgment? Yes***

4 of the Land Acquisition Act, 1894 (for short 'the Act') was issued on 2.12.1985. The Collector made the award on 15.3.1990. He determined the market value of the land at the rate of Rs.10/- per square metre for A Class non irrigated land and at the rate of Rs.5/- per square metre for non cultivable land including Kharatar and Gair Mumkin. The petitioner Amar Nath was paid Rs.8020/- compensation. In addition, he was paid solatium, additional compensation under Section 23(1-A) of the Act and interest; in all Rs.31,598.80.

3. The petitioner was aggrieved by the award made by Collector. He made a reference under Section 18 of the Act on the ground that the Collector has not determined the market value of the land rightly. According to the petitioner, the market value of the land was Rs.2,50,000/-. The case of the petitioner was also that the Collector has not determined the market value of fruit and non fruit bearing trees which were standing on the acquired land. The possession of the acquired land was taken in the year 1960-62. The State is, therefore, liable to pay interest on the amount of compensation from 1962 onwards.

4. The State resisted the petition and submitted that Collector had determined the compensation rightly. The market value of the acquired land was not Rs.2,50,000/- as alleged by the petitioner. The petitioner had been paid correct compensation. It was denied that possession of the acquired land was taken in the year 1960-62. The claim of the petitioner was denied.

5. The learned Additional District Judge held that Collector had determined the compensation in accordance with the Act. He has also observed that Collector was liberal in determining the market value of the acquired land. The Additional District Judge dismissed the land reference petition on 14.10.1998 and, therefore, petitioner is in appeal against the impugned award.

6. I have heard the learned counsel for the parties and gone through the record.

7. The learned counsel for the petitioner / appellant has submitted that the Collector has not determined the market value of the acquired land in accordance with law. The Additional District Judge should have assessed the market value of the acquired land on the basis of award dated 30.5.1995 Ext.P-1 which was made by learned District Judge, Mandi, Kullu and Lahaul & Spiti Districts at Mandi under Section 18 of the Act. He has contended that award Ext.P-1 pertains to acquisition of land for construction of same Plassi – Triphalghat road which is involved in the present case. The learned Advocate General has supported the impugned award.

8. The petitioner has led no evidence which can be considered for assessing the market value of the acquired land. The award Ext.P-1 no doubt pertains to land acquired for Plassi – Triphalghat road but this award is of the land situated in village Gharkhari. The acquired land in the present case is of Mohal Badhai. There is no evidence that land covered by award Ext.P-1 is comparable to the acquired land. The petitioner himself has not

appeared as a witness in the case. There is no evidence on record so as to assess the market value of the acquired land as claimed by the petitioner. In the facts and circumstances of the case, the Additional District Judge has rightly dismissed the reference petition. The impugned award requires no interference.

9. The result of above discussion is that the appeal is dismissed with no order as to costs.

July 23, 2007 *(soni)*

(Kuldip Singh)
Judge.